

AMENDED IN SENATE APRIL 10, 2014

SENATE BILL

No. 1197

Introduced by Senator Pavley

February 20, 2014

An act to amend ~~Section~~ *Sections 1203c and 3453* of, and to add *Section 2085.6* to, the Penal Code, relating to restitution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1197, as amended, Pavley. Restitution: collection by counties.

Existing law requires that restitution fines and fees be imposed upon a person convicted of crime. Under existing law, when a person is committed to an institution under the jurisdiction of the Department of Corrections and Rehabilitation and the court has ordered restitution, the probation officer or the district attorney, with the consent of the victim, is authorized to send the victim's contact information and a copy of the restitution order to the department for the sole purpose of distributing the restitution collected on behalf of the victim.

This bill, when a person who has been ordered to pay restitution is committed to a county jail or placed on postrelease community supervision or mandatory supervision, would authorize the probation officer or district attorney to provide the victim's contact information and a copy of the restitution order, with the victim's consent, to the county agency designated by the board of supervisors to collect and distribute restitution for the sole purpose of distributing the restitution collected on behalf of the victim.

Existing law makes any portion of a restitution fine or restitution fee that remains unsatisfied after a defendant is no longer on probation, parole, postrelease community supervision or mandatory supervision, or completed diversion, enforceable by the California Victim

Compensation and Government Claims Board, as specified. Existing law requires the Secretary of the Department of Corrections and Rehabilitation to collect restitution fines and fees from inmates and authorizes the collection of those fines and fees from inmates in county jails by an agency designated by the county board of supervisors. Existing law authorizes the secretary, the local agency designated by the county board of supervisors, or, under specified circumstances, a local collection program to collect restitution fines and fees from parolees. Existing law authorizes the secretary and the local agency to deduct and retain administrative fees for fines collected from parolees.

This bill would authorize the collection of restitution fines or restitution orders, in a manner to be established by the county board of supervisors, by the department or county agency designated by the board from a person who has been released from a state prison or county jail and is subject to postrelease community supervision or mandatory supervision, as specified. The bill would authorize a county board of supervisors to impose a fee upon the individual subject to postrelease community supervision or mandatory supervision to cover the actual administrative cost of collecting the restitution fine and the restitution order, not to exceed 10% of the amount ordered to be paid, to be deposited in the county's general fund.

Existing law requires that persons released from prison be subject either to parole for a specified period of time or to postrelease community supervision for a period not exceeding 3 years. Existing law specifies the conditions of postrelease community supervision.

This bill would require, as a condition of postrelease community supervision, that the person pay court-ordered restitution and restitution fines in the same manner as a person placed on probation.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1203c of the Penal Code is amended to
- 2 read:
- 3 1203c. (a) (1) Notwithstanding any other ~~provisions of~~ law,
- 4 whenever a person is committed to an institution under the
- 5 jurisdiction of the Department of Corrections and Rehabilitation,
- 6 whether probation has been applied for or not, or granted and
- 7 revoked, it shall be the duty of the probation officer of the county

from which the person is committed to send to the Department of Corrections and Rehabilitation a report of the circumstances surrounding the offense and the prior record and history of the defendant, as may be required by the Secretary of the Department of Corrections and Rehabilitation.

(2) If the person is being committed to the jurisdiction of the department for a conviction of an offense that requires him or her to register as a sex offender pursuant to Section 290, the probation officer shall include in the report the results of the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO) administered pursuant to Sections 290.04 to 290.06, inclusive, if applicable.

(b) These reports shall accompany the commitment papers. The reports shall be prepared in the form prescribed by the administrator following consultation with the Board of State and Community Corrections, except that if the defendant is ineligible for probation, a report of the circumstances surrounding the offense and the prior record and history of the defendant, prepared by the probation officer on request of the court and filed with the court before sentence, shall be deemed to meet the requirements of paragraph (1) of subdivision (a).

(c) In order to allow the probation officer an opportunity to interview, for the purpose of preparation of these reports, the defendant shall be held in the county jail for 48 hours, excluding Saturdays, Sundays, and holidays, subsequent to imposition of sentence and prior to delivery to the custody of the Secretary of the Department of Corrections and Rehabilitation, unless the probation officer has indicated the need for a different period of time.

(d) Whenever a person is committed to an institution under the jurisdiction of the Department of Corrections and Rehabilitation or a county jail pursuant to subdivision (h) of Section 1170, or is placed on postrelease community supervision or mandatory supervision, and the court has ordered the person to pay restitution to a victim, the following shall apply:

(1) If the victim consents, the probation officer of the county from which the person is committed may send the victim's contact information and a copy of the restitution order to the department or to the county agency designated by the board of supervisors to collect and distribute restitution for the sole purpose of distributing the restitution collected on behalf of the victim.

(2) Notwithstanding paragraph (1), the district attorney of the county from which the person is committed may send the victim's contact information and a copy of the restitution order to the department or to the county agency designated by the board of supervisors to collect and distribute restitution for the sole purpose of distributing the restitution collected on behalf of the victim if the district attorney finds it is in the best interest of the victim to send that information. If the victim affirmatively objects, the district attorney shall not send the victim's contact information. The district attorney shall not be required to inform the victim of the right to object.

(3) The victim's contact information shall remain confidential and shall not be made part of the court file or combined with any public document.

SEC. 2. Section 2085.6 is added to the Penal Code, to read:

2085.6. (a) When a prisoner owes a restitution fine, or any portion thereof, is subsequently released from the custody of the Department of Corrections and Rehabilitation or a county jail facility, and is subject to postrelease community supervision under Section 3451 or mandatory supervision under subdivision (h) of Section 1170, the person shall have a continuing obligation to pay the restitution fine in full. The restitution fine obligation and any portion left unsatisfied upon placement in postrelease community supervision or mandatory supervision is enforceable and may be collected, in a manner to be established by the county board of supervisors, by the department or county agency designated by the board of supervisors in the county where the prisoner is released. If a county elects to collect restitution fines, the department or county agency designated by the county board of supervisors shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury.

(b) When a prisoner owes payment for a restitution order, or any portion thereof, is released from the custody of the Department of Corrections and Rehabilitation or a county jail facility, and is subject to postrelease community supervision under Section 3451 or mandatory supervision under subdivision (h) of Section 1170, the person shall have a continuing obligation to pay the restitution order in full. The restitution order obligation and any portion left unsatisfied upon placement in postrelease community supervision

1 or mandatory supervision is enforceable and may be collected, in
2 a manner to be established by the county board of supervisors, by
3 the agency designated by the county board of supervisors in the
4 county where the prisoner is released. If the county elects to collect
5 the restitution order, the agency designated by the county board
6 of supervisors for collection shall transfer the collected amount
7 to the California Victim Compensation and Government Claims
8 Board for deposit in the Restitution Fund in the State Treasury or
9 may pay the victim directly. The sentencing court shall be provided
10 a record of payments made to the victim and of the payments
11 deposited into the Restitution Fund.

12 (c) Any portion of a restitution order or restitution fine that
13 remains unsatisfied after an individual is released from postrelease
14 community supervision or mandatory supervision shall continue
15 to be enforceable by a victim pursuant to Section 1214 until the
16 obligation is satisfied.

17 (d) At its discretion, a county board of supervisors may impose
18 a fee upon the individual subject to postrelease community
19 supervision or mandatory supervision to cover the actual
20 administrative cost of collecting the restitution fine and the
21 restitution order, not to exceed 10 percent of the amount ordered
22 to be paid, the proceeds of which shall be deposited into the
23 general fund of the county.

24 (e) Where a county elects to collect both a restitution fine and
25 a restitution order, the amount owed on the restitution order shall
26 be collected before the restitution fine.

27 (f) For purposes of this section, the following definitions shall
28 apply:

29 (1) "Restitution fine" means a fine imposed pursuant to
30 subdivision (a) of Section 13967 of the Government Code, as
31 operative prior to September 28, 1994, subdivision (b) of Section
32 730.6 of the Welfare and Institutions Code, or subdivision (b) of
33 Section 1202.4.

34 (2) "Restitution order" means an order for restitution to the
35 victim of a crime imposed pursuant to subdivision (c) of Section
36 13967 of the Government Code, as operative prior to September
37 29, 1994, subdivision (h) of Section 730.6 of the Welfare and
38 Institutions Code, or subdivision (f) of Section 1202.4.

39 SEC. 3. Section 3453 of the Penal Code is amended to read:

1 3453. Postrelease community supervision shall include the
2 following conditions:

3 (a) The person shall be informed of the conditions of release.

4 (b) The person shall obey all laws.

5 (c) The person shall report to the supervising county agency
6 within two working days of release from custody.

7 (d) The person shall follow the directives and instructions of
8 the supervising county agency.

9 (e) The person shall report to the supervising county agency as
10 directed by that agency.

11 (f) The person, and his or her residence and possessions, shall
12 be subject to search at any time of the day or night, with or without
13 a warrant, by an agent of the supervising county agency or by a
14 peace officer.

15 (g) The person shall waive extradition if found outside the state.

16 (h) The person shall inform the supervising county agency of
17 the person's place of residence, employment, education, or training.

18 (i) (1) The person shall inform the supervising county agency
19 of any pending or anticipated changes in residence, employment,
20 education, or training.

21 (2) If the person enters into new employment, he or she shall
22 inform the supervising county agency of the new employment
23 within three business days of that entry.

24 (j) The person shall immediately inform the supervising county
25 agency if he or she is arrested or receives a citation.

26 (k) The person shall obtain the permission of the supervising
27 county agency to travel more than 50 miles from the person's place
28 of residence.

29 (l) The person shall obtain a travel pass from the supervising
30 county agency before he or she may leave the county or state for
31 more than two days.

32 (m) The person shall not be in the presence of a firearm or
33 ammunition, or any item that appears to be a firearm or
34 ammunition.

35 (n) The person shall not possess, use, or have access to any
36 weapon listed in Section 16140, subdivision (c) of Section 16170,
37 Section 16220, 16260, 16320, 16330, or 16340, subdivision (b)
38 of Section 16460, Section 16470, subdivision (f) of Section 16520,
39 or Section 16570, 16740, 16760, 16830, 16920, 16930, 16940,
40 17090, 17125, 17160, 17170, 17180, 17190, 17200, 17270, 17280,

1 17330, 17350, 17360, 17700, 17705, 17710, 17715, 17720, 17725,
2 17730, 17735, 17740, 17745, 19100, 19200, 19205, 20200, 20310,
3 20410, 20510, 20610, 20611, 20710, 20910, 21110, 21310, 21810,
4 22010, 22015, 22210, 22215, 22410, 24310, 24410, 24510, 24610,
5 24680, 24710, 30210, 30215, 31500, 32310, 32400, 32405, 32410,
6 32415, 32420, 32425, 32430 32435, 32440, 32445, 32450, 32900,
7 33215, 33220, 33225, or 33600.

8 (o) (1) Except as provided in paragraph (2) and subdivision
9 (p), the person shall not possess a knife with a blade longer than
10 two inches.

11 (2) The person may possess a kitchen knife with a blade longer
12 than two inches if the knife is used and kept only in the kitchen of
13 the person's residence.

14 (p) The person may use a knife with a blade longer than two
15 inches, if the use is required for that person's employment, the use
16 has been approved in a document issued by the supervising county
17 agency, and the person possesses the document of approval at all
18 times and makes it available for inspection.

19 (q) The person shall waive any right to a court hearing prior to
20 the imposition of a period of "flash incarceration" in a city or
21 county jail of not more than 10 consecutive days for any violation
22 of his or her postrelease supervision conditions.

23 (r) The person shall participate in rehabilitation programming
24 as recommended by the supervising county agency.

25 (s) The person shall be subject to arrest with or without a warrant
26 by a peace officer employed by the supervising county agency or,
27 at the direction of the supervising county agency, by any peace
28 officer when there is probable cause to believe the person has
29 violated the terms and conditions of his or her release.

30 (t) *The person shall pay court-ordered restitution and restitution*
31 *finer in the same manner as a person placed on probation.*